

Animal and Plant Health Inspection Service, USDA

§ 301.64-4

the product, article or means of conveyance is subject to the restrictions of this section.

[48 FR 54580, Dec. 6, 1983, as amended at 64 FR 71269, Dec. 21, 1999]

§ 301.64-3 Quarantined areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Deputy Administrator shall list as a quarantined area in paragraph (c) of this section, each State, or each portion thereof, in which the Mexican fruit fly has been found by an inspector or in which the Deputy Administrator has reason to believe that the Mexican fruit fly is present, or each portion of a State which the Deputy Administrator deems necessary to regulate because of its proximity to the Mexican fruit fly or its inseparability for quarantine enforcement purposes from localities in which the Mexican fruit fly occurs. Less than an entire State will be designated as a quarantined area only if the Deputy Administrator determines that:

(1) The State has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under this subpart; and

(2) The designation of less than the entire State as a quarantined area will otherwise be adequate to prevent the artificial interstate spread of the Mexican fruit fly.

(b) The Deputy Administrator or an inspector may temporarily designate any nonquarantined area in a State as a quarantined area in accordance with the criteria specified in paragraph (a) of this section for listing such area. Written notice of such designation shall be given to the owner or person in possession of such nonquarantined area, and, thereafter, the interstate movement of any regulated article from such area shall be subject to the applicable provisions of this subpart. As soon as practicable, such area shall be added to the list in paragraph (c) of this section or such designation shall be terminated by the Deputy Administrator or an inspector, and notice

thereof shall be given to the owner or person in possession of the area.

(c) The areas described below are designated as quarantined areas:

TEXAS

Cameron County. The entire county.

Hidalgo County. The entire county.

Willacy County. The entire county.

[48 FR 54580, Dec. 6, 1983]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 301.64-3, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 301.64-4 Conditions governing the interstate movement of regulated articles from quarantined areas.

Any regulated article may be moved interstate from a quarantined area only if moved under the following conditions:³

(a) With a certificate or limited permit issued and attached in accordance with §§ 301.64-5 and 301.64-8;

(b) Without a certificate or limited permit, if:

(1) The regulated article originated outside the quarantined area and is either moved in an enclosed vehicle or is completely enclosed by a covering adequate to prevent access by Mexican fruit flies (such as canvas, plastic, or closely woven cloth) while moving through the quarantined area; and

(2) The point of origin of the regulated article is clearly indicated on the waybill, and the enclosed vehicle or the enclosure that contains the regulated article is not opened, unpacked, or unloaded in the quarantined area; and

(3) The regulated article is moved through the quarantined area without stopping except for refueling or for normal traffic conditions, such as traffic lights or stop signs; or

(c) Without a certificate or limited permit, if the regulated article is moved:

(1) By the United States Department of Agriculture for experimental or scientific purposes;

(2) Pursuant to a departmental permit issued by the Administrator for the regulated article;

³Requirements under all other applicable Federal domestic plant quarantines and regulations must also be met.

(3) Under conditions specified on the departmental permit and found by the Administrator to be adequate to prevent the spread of Mexican fruit fly; and

(4) With a tag or label bearing the number of the departmental permit issued for the regulated article attached to the outside of the container of the regulated article or attached to the regulated article itself if not in the container.

(Approved by the Office of Management and Budget under control number 0579-0238)

[48 FR 54580, Dec. 6, 1983, as amended at 57 FR 522, Jan. 7, 1992; 70 FR 37254, June 29, 2005]

§ 301.64-5 Issuance and cancellation of certificates and limited permits.

(a) A certificate shall be issued by an inspector for the movement of a regulated article if such inspector:

(1)(i) Determines that it has been treated under the direction of an inspector⁴ in accordance with § 301.64-10; or

(ii) Determines based on inspection of the premises of origin that the premises are free from the Mexican fruit fly and the article has not been exposed to Mexican fruit fly; or

(iii) Determines based on inspection of the article that it is free from Mexican fruit fly; and

(2) Determines that it is to be moved in compliance with any additional conditions deemed necessary under section 414 of the Plant Protection Act (7 U.S.C. 7714) to prevent the spread of the Mexican fruit fly;⁵ and

(3) Determines that it is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to such article.

(b) A limited permit shall be issued by an inspector for the movement of a regulated article if such inspector:

(1) Determines, in consultation with the Deputy Administrator, that it is to

be moved to a specified destination for specified handling, utilization, processing, or for treatment in accordance with § 301.64-10 (such destination and other conditions to be specified on the limited permit), when, upon evaluation of all of the circumstances involved in each case, it is determined that such movement will not result in the spread of the Mexican fruit fly because life stages of the pest will be destroyed by such specified handling, utilization, processing, or treatment;

(2) Determines that it is to be moved in compliance with any additional conditions deemed necessary under section 414 of the Plant Protection Act (7 U.S.C. 7714) to prevent the spread of the Mexican fruit fly;⁵ and

(3) Determines that it is eligible for such movement under all other Federal domestic plant quarantines and regulations applicable to such article.

(c) Certificates and limited permits for use for movement of regulated articles may be issued by an inspector or person engaged in the business of growing, handling, or moving regulated articles provided such person is operating under a compliance agreement. Any such person may execute and issue a certificate for the interstate movement of a regulated article if such person has treated such regulated article to destroy infestation in accordance with the provisions in § 301.64-10 and the inspector has made the determination that such article is otherwise eligible for a certificate in accordance with paragraph (a) of this section; or if the inspector has made the determination that such article is eligible for a certificate in accordance with paragraph (a) of this section without such treatment. Any such person may execute and issue a limited permit for interstate movement of a regulated article when the inspector has made the determination that such article is eligible for a limited permit in accordance with paragraph (b) of this section.

(d) Any certificate or limited permit which has been issued or authorized may be withdrawn by an inspector if such inspector determines that the holder thereof has not complied with any conditions under the regulations

⁴Treatments shall be monitored by inspectors in order to assure compliance with the requirements in this subpart.

⁵An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).